

REMARKS

A Supplemental Information Disclosure Statement has been requested. Applicant has no further information and has been unable to locate additional information despite efforts to do so.

Claims 29, 30, 40 and 41 have been cancelled. Claims 23 and 33 have been amended to define over the cited art and to more distinctly define the invention in terms of its advantages over the prior art.

Claims 22, 23, 27, 29, 32-34, 40 and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruce Industries, Inc. reference in view of Auld, Jr. et al Publication No. US005449981A.

Claims 24-26 and 35-37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruce Industries, Inc. reference in view of Auld, Jr. et al Publication No. US005449981A, further in view of Hesprich US005564821.

Claims 28 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruce Industries, Inc. reference in view of Auld, Jr. et al Publication No. US005449981A, further in view of Barnes US00223380.

Claims 30 and 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruce Industries, Inc. reference in view of Auld, Jr. et al Publication No. US005449981A, further in view of Davies US005043530.

Claims 31 and 42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruce Industries, Inc. reference in view of Auld, Jr. et al Publication No. US005449981A, further in view of Crates US004945461.

Applicant respectfully traverses these rejections, subject to the amendments made above.

The new claims recite a reduced emissions work light including a bulb, an electromagnetic interference emissions containment housing located adjacent to the bulb, an electronic ballast located within the emissions containment housing and operatively connected to the bulb, and an electromagnetic interference emissions filter operatively connected to the electronic ballast. A power cord extends through the length of the light and is sheathed with an emission-reducing sheath. The emissions filter, emissions containment housing and sheathed power cord cooperate to reduce electromagnetic interference emissions generated by the work light to a point meeting military requirements for the control of EMI emissions, MIL-STD-461D, as stated and cited in the specification, as filed, at page 7, paragraph 56.

The prior art does not disclose, teach, or suggest a reduced emissions work light which incorporates an *electronic ballast* within an emissions containment housing. The prior art light utilizes a magnetic ballast which produces a relatively loud noise during use. Magnetic ballasts also generally require between 2-5 seconds of activation time, thus producing an annoying flicker prior to achieving full brightness. Furthermore, magnetic ballasts typically utilize a starter in conjunction with the ballast to induce a high voltage spike that will excite the gas inside the fluorescent bulb. Voltage variations and droppage will often cause the light to go out, thus requiring the starter and ballast to reactivate the fluorescent bulb. This can take anywhere from 2-8 seconds, causing a dangerous condition if there is only one light used for illumination.

The provision of a power cord extending through the length of the light is a highly desirable feature that permits a number of lights to be connected together in series, yet the cord itself emitted a significant amount of EMI. Surprisingly, it was learned that by using a braided power cord, the emissions from the power cord were reduced, but also the

emissions from other components were also reduced. This is a surprising result and provides the distinct advantage of reducing the amount of other shielding required, while still providing a light that can be easily connected together in series.

A Declaration of one of the inventors explaining the prior failed attempts to produce a work light as now claimed, the long-felt need for the claimed light, and commercial success of the light is attached for consideration by the Examiner. As set out in the attached Declaration, there has been a long-standing need for a work light which meets the military standards for durability and low emissions. The light as now claimed is the first such light to meet military specifications. As described in the Specification, particularly at paragraphs 56, 60, and Figures 2 and 3, the light has an electronic ballast 45. This feature is highly desirable for the reasons stated above. However, the drawback heretofore preventing the use of electronic ballast-type lights in many applications is the fact that an electronic ballast emits significantly more EMI radiation than conventional magnetic ballasts. As also noted in the attached Declaration, prior, unsuccessful efforts to solve the emission problem involved the expenditure of approximately \$500,000 by Bruce Industries, Inc., manufacturer of the prior art TM 10-5410-229 13&P light cited as prior art by the Examiner.

The light as claimed has been a commercial success. In an approximately 18 month period beginning January, 2002, seven thousand, one-hundred, thirty-nine (7,139) two-light sets having a sales value of \$2,893,743 have been sold—63% to the Defense Logistics Agency. The remaining 37% were sold to tent manufacturers or directly to military bases, including Ft. Campbell, Ft. Belvoir, Ft. Bragg, Ft. Hood, Fr. Detrick, Ft. Lewis, Ft. Benning, Ft. Carson, Ft. Polk, Ft. Stewart, Ft. Huachuca, Langley Air Force

Base, Brooks Air Force Base, Keesler Air Force Base, Camp LeJeune MCS and SBCCOM Natick.

Applicant submits that the Examiner has given insufficient attention to the requirement to make a prima facie case of obviousness by more than merely combining references. Applicant makes no claim that the elements of the invention, per se, are new. Applicant does contend that the prior art does not teach or suggest the claimed combination, and that the unobviousness of the claimed invention is demonstrated by the facts set out in the Declaration.

Relevant case law supports applicant's claim of unobviousness.

For example, in Ex parte Nesbit, the Board considered a case where the Examiner has correctly interpreted the teachings of the art, but had arrived at an incorrect conclusion regarding obviousness:

We next consider the rejection of claims 1 through 15 under 35 USC 103.

....

As a consequence of our review, we agree with the examiner that the Porter Athletic Equipment reference discloses steel basketball rims used with glass backboards, that the patents to Newcomb and Pollock suggest illumination of targets for night or low light play, that the patents to Fox and Kutnyak disclose the conventionality of utilizing electric light sources in game devices to permit night or low light play, that the patents to Zapos and Best provide transparent portions on goal structures to provide protection for light sources mounted therein, and that the patent to Rydborn discloses the use of light detection means operable to override a switching means for an illumination means in response to ambient light levels.

However, we do not agree with the examiner that one having ordinary skill in the art would have found it obvious to have combined this mosaic of teachings in the manner proposed in the rejection of the claims on appeal. The initial burden of establishing a basis for denying patentability to a claimed invention rests upon the examiner. In re Piasecki, 745 F.2d 1468, 223 USPQ 785 (Fed. Cir. 1984). In establishing a prima facie case of obviousness under 35 USC 103, it is incumbent upon the examiner to provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. Ex parte Clapp, 227 USPQ 972 (BPAI 1985). To this end, the requisite motivation must stem from some teaching, suggestion or

inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from appellants' disclosure. See, for example, Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). As stated in W. L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), [t]o imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.

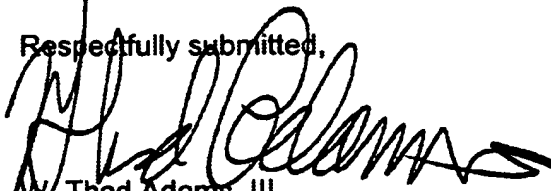
It is our conclusion that the only reason to combine the teachings of the applied references in the manner proposed by the examiner results from a review of appellants' disclosure and the application of impermissible hindsight. Thus, we cannot sustain the examiner's rejections of appealed claims 1 through 15 under 35 USC 103.

Ex Parte Nesbit, 25 U.S.P.Q. 2d 1817, 1818-1819 (1992).

As noted above, the Examiner must provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. The requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from appellants' disclosure. Applicant respectfully submits that when viewed in this manner, the claimed invention is patentably distinct from the cited art as combined, and the claims should be allowed.

For all of the reasons discussed above, Applicant submits that all of the claims in the case are now in condition for allowance. Such action is therefore requested at an early date. If the examiner believes that issues remain for discussion, he is invited to contact the undersigned at the telephone number or e-mail address listed below.

Respectfully submitted,



W. Thad Adams, III
Attorney for Applicant
Registration No. 29,037

Appl. No. 09/862,773
Amdt. dated 10/16/2003
Reply to Office Action of 04/18/2003

W. Thad Adams, III
Adams Evans P.A.
2180 Two Wachovia Center
Charlotte, North Carolina 28282
Tel.: (704) 375-9249
Fax: (704) 375-0729
e-mail: wta@adamspat.com

I hereby certify that this correspondence is being deposited
with the U.S. Postal Service as first class mail in an
envelope addressed to: Commissioner for Patents, P.O.
Box 1450, Alexandria, VA 22313-1450 on 10/16/2003.


Cecilia M. Sidebottom

10/16/2003
Date of Signature



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPL. NO : 09/862,773
APPLICANT : SCHNAUFER ET AL.
FILED : 5/21/2001
TITLE : PORTABLE REDUCED-EMISSIONS WORK LIGHT
TC/A.U. : 2875
EXAMINER : Amarantides, J.
DOCKET NO. : 197/40

DECLARATION PURSUANT TO 35 U.S.C. ' 1.132

Thomas B. Crates declares and says:

1. I am one of the named inventors in the above-referenced patent application and make this declaration based upon my personal knowledge, except as to those things stated upon information and belief, and as to those things, I believe them to be true.
2. There has been a long-standing need for a work light which meets the military standards for durability and low emissions. The light as now claimed is the first such light to meet military specifications.
3. As described in the Specification, particularly at paragraphs 56, 60, and Figures 2 and 3, the light has an electronic ballast 45. This feature is highly desirable. An electronic ballast uses less current, reduces flicker and start-up delay, and has a longer life. However, a drawback heretofore preventing the use of electronic ballast-type lights in many applications is the fact that an electronic ballast emits significantly more EMI

radiation that conventional magnetic ballasts.

4. Upon information and belief, prior, unsuccessful efforts to solve the emission problem included the expenditure of approximately \$500,000 by Bruce Industries, Inc., manufacturer of the prior art TM 10-5410-229 138P light cited as prior art by the Examiner.

5. The light as claimed has been a commercial success. In an approximately 18 month period beginning January, 2002, seven thousand, one-hundred, thirty-nine (7,139) two-light sets having a sales value of \$2,893,743 have been sold—63% to the Defense Logistics Agency. The remaining 37% were sold to tent manufacturers or directly to military bases, including Ft. Campbell, Ft. Belvoir, Ft. Bragg, Ft. Hood, Fr. Detrick, Ft. Lewis, Ft. Benning, Ft. Carson, Ft. Polk, Ft. Stewart, Ft. Huachuca, Langley Air Force Base, Brooks Air Force Base, Keesler Air Force Base, Camp LeJeune MCS and SBCCOM Natick.

6. The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

A handwritten signature in black ink, appearing to read "Thomas B. Crates", is written over a horizontal line. The signature is stylized with large, flowing letters.

Thomas B. Crates